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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,699

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Francis Lefranc

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03/24/2009

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,699	<b>Applicant(s)</b> LEFRANC, FRANCIS	
	<b>Examiner</b> SARAH B. MCPARTLIN	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7-15 is/are rejected.
- 7) ☒ Claim(s) 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/09 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-2, 4-5, 7-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words/phrases lack sufficient antecedent basis:

- the vibratory element (claim 1, line 10)

Claims 2, 4-5 and 7-14 are rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-5, 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raffel (3,934,283) in view of Teidemann (6,453,523). With respect to claim 1, Raffel discloses a vibratory warning device intended to be fixed to a structural element, such as a seat of a vehicle, comprising: vibratory means (34) adapted to create a mechanical vibration under the effect of a control signal, fixation means (40)(42)(44)(46) adapted to make integral the vibratory means (34) and a portion (30) of the structural element (14), wherein the fixation means comprises an element (42) defining a gap with a width, said gap being located between element (42) and the vibratory means (34), said gap being provided with an opening (i.e. at a top end thereof) to receive the portion (30) of the structural element so as to ensure fixation of the device by clamping of the element on the portion of the structural element (14), the element (42) is capable of being adjusted to widen the gap to allow insertion of the structural element (14).

A play compensation means (48) is disposed between the resilient element (32) and the vibratory means (34).

A play compensation means (48) is disposed between the resilient element (42) and the portion of the structural element (30).

A support means (46) cooperates with the element (42) so as to limit the deformation of the latter in the direction of an enlargement of the gap.

The support means (44)(46) are removably fitted on the resilient element (42).

The support means (44)(46) applies a pressure on the resilient element (42) in the direction of a narrowing of the gap.

A play compensation means (48) and (50) is disposed between the resilient element (42) and the support means (44)(46).

The play compensation means (48) comprise a portion in a deformable material added to the element (42).

The play compensation means comprise a portion of deformable material (50) added to the support means (44).

The vibratory means (34) is disposed in a casing (38) and the element (42) is formed by at least a portion of a wall of said casing (38) (given that it is integrally attached via plate (36)).

Raffel discloses all claimed elements with the exception of an element that is resilient and has a natural bias for narrowing the gap and ensuring fixation of the device on the structural element.

Teidemann discloses two naturally biased resilient elements (11) and (13) that are used to clampingly receive an edge of a shelf (5).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify elements (40) and (42) of Raffel to be formed as a unitary piece of flexible material as taught by Teidemann. Such a modification would provide

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additional resistance to removal of the device to the bolts (44)(46) already in place.

Furthermore, all of the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

6. Claim 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raffel (3,934,283) in view of Teidemann (6,453,523) in further view of Hsiao (6,669,291). As disclosed above, Raffel, as modified, discloses all claimed elements with the exception of a motor vehicle seat and a wire grid frame wherein the fixation means are made integral with a portion of the wire.

Hsiao discloses a vibratory warning device intended to be fixed to a structural element (40), such as a seat of a vehicle. The seat (40) is a motor vehicle seat, given that it is disposed on wheels and intended to be powered by a seat occupant, and a wire grid frame comprises at least one wire (43), wherein the fixation means of at least one warning device is made integral with a portion of the wire. Hsiao further discloses a wire grid forming the back of the chair. A fixation means is used to mount a vibration device (30) to at least one wire (43) of the wire grid.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to mount the vibratory warning device disclosed by Raffel, as modified, to the seat as taught by Hsiao. Such a modification would provide the soothing vibrations to a seated user. Furthermore, all of the claimed elements were known in

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the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

***Allowable Subject Matter***

7. Claims 19-21 allowed.
8. Claims 16-18 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Amendment/Arguments***

9. Applicant's request for continue examination filed on February 23, 2009 has been considered in its entirety.

Applicant's arguments with respect to Luden and Renehan are moot in view of the new grounds of rejection set forth above. The Examiner contends that Raffel, modified with the teachings of Teidemann, shows the claimed invention.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Buchwald (3,009,676) and Kane (1,332,442).

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH B. MCPARTLIN whose telephone number is (571)272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Examiner, Art Unit 3636

/S. B. M./  
Examiner, Art Unit 3636



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